

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

NATIVIDAD J. GALLEGOS,

Plaintiff,

vs.

CIV 10-0852 RLP/KBM

DEPUTY ERIC KUEBLER,
DEPUTY SANTIAGO ROYBAL,
DEPUTY NICHOLAS HUFFMEYER, and
THE BOARD OF COUNTY COMMISSIONERS
OF BERNALILLO COUNTY,

Defendants.

ORDER GRANTING MOTION TO COMPEL

THIS MATTER is before the Court on Plaintiff's Motion to Compel Discovery (*Doc. 23*). The Court has given due consideration to the motion and memoranda submitted by the parties. In Interrogatories No. 4 and 5, Plaintiff asks Defendants Kuebler and Huffmeyer "[i]n your own words, and without merely referring to the pleadings in this matter, please describe the events of October 14, 2009, which gave rise to this lawsuit." Clearly these interrogatories are designed to elicit information leading to the discovery of admissible evidence relevant to the claims and defenses in this action. *See* FED. R. CIV. P. 26(b)(2).

In response, however, Defendants merely stated that "[t]he events which are the subject of this lawsuit are fully described in my report on the incident." Yet in their memorandum in opposition to the motion concede that "Defendants may well, and likely will, offer additional facts in their testimony should they be asked to elaborate on certain details by either plaintiff or defense counsel at any point in the proceedings." *Doc. 24* at 2. Defendants contend that Plaintiff's opportunity to depose Defendants should preclude them from being required to "repeatedly narrate their actions." In short, I find Defendants' argument unpersuasive.

IT IS HEREBY ORDERED that Plaintiff's Motion to Compel is **granted**. Defendants shall fully respond to Interrogatories No. 4 and 5 by March 31, 2011. Because the Defendants' response was not wholly unresponsive, however, I believe it would be unjust to sanction them under Rule 37(a)(5) and will therefore decline Plaintiffs request for attorney's fees.


UNITED STATES MAGISTRATE JUDGE